

TOWN COUNCIL
Town of Trumbull
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TOWN HALL
Trumbull

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**LEGISLATION & ADMINISTRATION COMMITTEE
&
CHARTER REVISION COMMISSION
MINUTES
June 20, 2011**

CALL TO ORDER: Chairwoman Suzanne Testani called the Legislation & Administration Committee to order at 7:34 p.m.

L&A Committee Members Present: Chairwoman Suzanne Testani, Kristy Waizenegger, Chadwick Ciocci, Mark Altieri and Michael Rappa.

L&A Committee Members Absent: Vice-Chairman Jeff Jenkins.

Charter Revision Commission Members Present: Chairman John Chiota, Gail Hanna William Holden, James Cordone and Paul Timpanelli.

Charter Revision Commission Members Absent: Russell Friedson.

Also Present: Attorney Maslan.

Chapter II Legislative Branch: There was no change to the Town Council composition of 21 members, there are presently 7 districts; there may be fewer districts as a result of the reapportioning at the state level. The proposed change is to have two (2) councilmen from each district, no matter how many districts there are, (after the reapportioning). The difference would be made up by town wide at-large candidates, this allows for a more competitive election.. The district candidates would be available for district issues; the at-large candidates, just as the whole council always does, will consider the town wide issues.

Mr. Holden noted that the proposed revision does not include the specific language that the town council is a two (2) year term, suggesting the insertion of the following language under Section 2, **“to a two (2) year term”** after the word *elected* in the following sentence:

“Members of the town council shall be elected **“to a two (2) year term”** as provided in Chapter VIII, Section 3. Mr. Holden stated the CRC’s intention was to have it read that way, but the language needs to be specified/inserted.

Mr. Holden stated districts that would be reapportioned are not locked into any specific number of districts. The Charter is currently not locked into any specific number districts. The redistricting should take place next year and depending on what the state does he would like to see Trumbull avoid the split districts, the most logical pattern is five (5) districts, but the Town does not know what the state will do. It could end up that the Town is not all one state senate district. Trumbull has been that way previously. Trumbull used to be split between congressional districts.

In response to a question from Mr. Altieri. Mr. Holden stated that the town has been made up of seven districts since 1985.

Mr. Altieri stated that there is a difference between resizing the districts and changing the number of districts.

Mr. Holden stated that he is referring to the voting population, when he refers to the term population. There is an issue with the present district lines. They are based on the 1980 census, which predated any condominium or cluster housing development. For example there is a differential of 24.5% between District 1 & District 4, clearly in violation of the one person one vote rule. This is based on voting population, if the town clerk does an actual population check on each voting district, they may be off by more or less. A particular council district could be only entitled to two (2) seats, the Charter's language reads as, "A party can only vote for one less than the number of seats to be elected", that could mean that each major or minor party could nominate one candidate and the voter could only vote for that one candidate.

Mr. Altieri explained that if you have 3 representatives from each district and the total population is then divided by 7 districts by population within the 10% guidelines that would satisfy the requirement of the one man one vote rule.

All agreed that if the seven districts would be reduced to five the above formula would still work, it can be done with any number of districts.

Mr. Altieri spoke in favor of no more than a 14-7 majority; he is not opposed to the at large-seats.

Mr. Timpanelli stated that what Mr. Holden referenced is accurate and on point but nothing that is recommended in the Charter revision addresses those issues.

Mr. Rappa suggested the following language, " Three councilmen from each district with no more than 2 from any one party up to 21 councilmen." If they were to go to 5 districts there would be 15 councilmen; the difference to 21 would be made up by the at-large candidates.

Chairman Chiota stated that the minority representation had been applied therefore that makeup would not work.

Mr. Cordone suggested that the seven (7) districts be written into the Charter. Mr. Timpanelli stated by doing so that would make matching those districts difficult for the registrar of voters. Judge Chiota spoke against writing the seven (7) districts into the Charter.

Mr. Holden stated that the suggestion of returning their tabulators had been made since a number of districts have reduced the number of their districts as a cost saving measure.

Four (4) year town council terms had been discussed by the Charter Revision Commission but had been decided against. This decision had been made based upon the thought that the two (2) year term would serve as a balance to the four (4) year first selectman, town clerk and treasurer terms.

Mr. Holden stated that there is nothing special with how the districts presently exist, there are problems with how some of the lines are drawn, i.e. the line drawn between the northern portion of District 6 and the southern portion of District 3 go through little streets with only 6 or 7 houses on them.

Chairman Chiota stated that it was his sense that the council is not in favor of the at-large portion of the proposed change to the town council make-up. Mr. Timpanelli clarified that all were in agreement that not voting for of all three (3) candidates should change.

Ms. Waizenegger stated that there are two separate issues to consider, she is not a proponent of the at large proposal or the four (4) year term but the question to consider is whether to put the question on the ballot or not, personal opinions on the revisions should not be the deciding factor of whether to put it on the ballot as a question or not. Chairman Chiota agreed that the townspeople should make the final decision

Chairman Chiota discussed the definition of calendar days vs. business days. Under FOI the posting of minutes reads as 7 days (calendar); the proposed change to the Charter would now define all days as business days. This would mean that the Charter is less stringent than the state statute. Mr. Altieri specified that the language should read as “be made available” when referring to the submission of the documents (agendas, votes and minutes) to be posted at the Town Clerk’s and websites of, explaining that boards and/or commissions should make the minutes available to the proper people who post them, if they do not get posted by the appropriate person it would not be the chairman, and or volunteer who would be responsible for it as long they had made them available within the required timeline to be posted and would be in compliance with the Charter. Mr. Altieri and Ms. Hanna further explained that there are situations that are out of the control and/or purview of the board and or commission, for example the website could be down at the deadline.

Section 7. This section was added to codify what has been past practice. Normally the legislation and or appointment are effective 15 days after publication, emergency legislation and or appointment is effective on publication.

Atty. Maslan stated that emergency meetings under FOI are very difficult to define what is considered an emergency.

Mr. Altieri questioned the definition of the appointment in the title of the section.

Mr. Holden clarified that the appointments would become effective upon publication just as emergency legislation would. Emergency Legislation and appointments are two separate items and would both be effective upon publication. This would declare an appointment to be effective upon publication by a majority vote as emergency legislation is, the emergency legislation would require 2/3 vote.

Atty. Maslan stated that the appointments would take place at a regular or a special meeting with the proper notice requirements having had taken place and could be referred to as an emergency under the Charter and would be in compliance with FOI. An emergency meeting does not require 24 hour notice and is much harder to be in compliance with FOI. The remedy for a FOI violation in

an extreme case is to nullify the vote and or action. To have an emergency meeting without notice, and it turns out to be an emergency, the FOI Commission could upon a complaint nullify the action taken, but if the meeting is a regular or special meeting with the proper 24 hour notice the action is in compliance with FOI.

Mr. Holden stated emergency legislation of appointments has been past practice at a regular meeting with all of the notice requirements met, the interview process of the appointee has been completed; the reason for the emergency was generally that a quorum for the next scheduled meeting would not be met without the appointment in place.

Mr. Altieri stated that this read as all appointments would need a 2/3 majority vote.

Ms. Waizenegger stated that the title of the section is ambiguous and would need to be clearly defined. Chairman Chiota noted that Charter Revision Commission would look into the language and title of the section.

Page 10 - Audit Powers clarifies that the council can audit the BoE.

Section 12. This section would be deleted if there would be no at-large candidate of the town council.

Chapter III. – Executive Branch

Chairman Chiota stated that he would like to see the four (4) Year term question go to the townspeople, and would like a definitive answer going forward on this issue.

Ms. Waizenegger personally does not support a four (4) year term for the first selectman but agreed the question should go to the townspeople to decide. The question would need to be worded in such a way that the default language does create a Four year term without the 2 year term for the council or vice versa.

Mr. Altieri stated his concern that all options to the four (4) year term have had a tie-in to balance the power of the Four (4) year term.

Mr. Timpanelli agreed it would be problematic if one was adopted without the other.

Section 2 – Powers and duties. Chairman Chiota explained this section was added in order to clarify that the first selectman does have the right to appoint his own staff.

Subsection j. Atty. Maslan stated there is a question about settling claims; ordinarily the board of selectmen would settle all claims. The question is now would you want the first selectman to settle the claims?

All present agreed they would not want the first selectman to settle the claims. The council should. Atty. Maslan cautioned that subsection J may be too broad, as it transfers all of the powers of the board of selectman to the first selectman.

Mr. Cordone stated the phrase, “As otherwise provided in this Charter” should be added. That would resolve this issue.

Mr. Ciocci stated that subsection j is not necessary and should be eliminated.

Ms. Waizenegger agreed.

All agreed to delete subsection j.

Subsection k. - Allows the first selectman to combine departments for economic issues with the understanding that this could only become effective with Town Council approval.

Chairman Chiota explained that subsections l, m, n, p, (i), (ii) and so on exempts certain boards to this action.

Atty. Maslan suggested to remove the word “notwithstanding” and to include except where otherwise provided in the Charter, this would allow the first selectman to suggest to the town council to combine the departments, except as provided by in the Charter. Therefore if it is set in the Charter the first selectman could not change it. Other departments set up outside of the Charter could be changed and/or combined.

Mr. Altieri stated that at any time this has been discussed there has always been a reason that would not allow the action. There have been boards that have been disbanded by resolution.

Subsection i. In response to Mr. Altieri, Chairman Chiota stated this section puts in writing what has been past practice.

Section 3. Absence, disability, vacancy, etc. Chairman Chiota explained that this time the Director of Finance would assume the responsibilities of the first selectman in his absence; our current Director of Finance is not an elected position and is not required to be a Trumbull resident. This section addresses those two issues. Having the Treasurer assume the duties followed by the Town Council Chairman and if they can not serve, the Town Council would appoint a person.

In response to Ms. Waizenegger, Ms. Hanna stated the vacancies created by the treasurer or the Town Council Chairman would be covered under the regular vacancy section of the Town Charter.

In response to Mr. Ciocchi, Chairman Chiota stated that if a vacancy had to be created in order to assume the responsibilities of the first selectman it would be better to create a vacancy of the treasurer rather than the town clerk. Mr. Altieri agreed. Mr. Cordone explained that there also could be a temporary absence which would result in the treasurer having a dual role as the first selectman and the treasurer. Mr. Altieri preferred that the Chairman of the Town Council to assume the first selectman’s responsibility especially on a temporary basis, because there would be no conflict of interest.

In response to Ms. Waizenegger, Chairman Chiota and Mr. Timpanelli stated that historically it is true that the treasurer would have the necessary skill set to fill the vacancy of the first selectman as opposed to the town clerk. Mr. Altieri stated that the town clerk may have more of the day to day knowledge of the operations of the Town Hall, but did agree the treasurer would have more of the qualifications.

Mr. Timpanelli agreed that it is necessary to have an elected person and a town resident assume the responsibilities of the first selectman in his absence.

Section 6. Department of Finance – This clarifies that the BoF can audit any special agency or enterprise fund. This was discussed at the last joint L&A and CRC meeting.

In response to Ms. Waizenegger, Ms. Hanna stated that the special agency accounts are defined within the Finance Dept. This would not identify or rename any other account that is not currently

known as a special agency account. Chairman Chiota further explained that they want someone to be looking at these accounts because no one is currently doing so.

Mr. Ciocchi left the meeting at 8:30 p.m.

Chairman Chiota stated that paragraph 4 was added to allow for more transparency.

section C - Adds the title “Tax” to Assessor four times to define the title of Assessor.

subsection d. Treasurer – The addition of the four (4) year term language is to be consistent with the proposal of the first selectman, treasurer and town clerk proposal.

section E. Payment and Obligations – The Charter Revision Commission thought it was important that someone approve the expense accounts of the First Selectman and the Superintendent of Schools. It was decided that the treasurer would have that responsibility. This is not currently being done.

section F. Special Audits – This addition clarifies and includes the Board of Finance and Town Council.

section G. Purchasing contracts and expenditures – The town currently has a purchasing policy but it has flaws; the Charter Revision did not want to put the purchasing policy in the Charter. The policy is extensive (approximately 40 pages). The Charter Revision Commission would like the Town Council to adopt a new purchasing policy. The new policy is being developed by Mr. Chimini, the Purchasing Agent. The policy is not ready yet, when it is, the Town Council will review and consider it and will have the authority to adopt it.

Mr. Ciocchi returned to the meeting at 8:32 p.m.

Ms. Waizenegger left the meeting at 8:33 p.m.

Atty. Maslan and Chairman Chiota explained that under the new purchasing policy everything would have to go to bid. RFP and/or RFQ guidelines would be followed; this would make a level playing field and would increase the competitive bid market. The town would get the best prices available. Chairman Chiota stated in sub-paragraph b includes the following language:

If the amount is more than \$1,000 but less than \$10,000 three quotes would have to be received. If it is over \$10,000 it would have to go out to bid.

This would assure that the bidding procedure would be followed; it had not been rigidly followed in the past.

Ms. Waizenegger returned to the meeting at 8:35 p.m.

Mr. Timpanelli stated the proposed purchasing policy was a positive move and represents good balance.

Chairman Chiota stated that there would be an emergency clause written into the policy.

Atty. Maslan concurred and further explained that there would be a provision made to allow someone on contract with the town to do on-going road repairs and/or an emergency work, this will allow the Town to address an immediate problem.

subsection (f). - This section was written by Mr. Friedson. This sections intention is as follows: if an appropriation is supposed to run a year it can not be spent a shorter amount of time resulting in a supplemental request.

Mr. Holden referred to subsection f, indicating that Mr. Friedson wanted the budget as adopted followed in spirit as well as law.

Mr. Altieri spoke against this section.

Mr. Timpanelli stated it is unenforceable provision. The Town Council does not approve the number of positions in the budget, they approve the dollar amount; the administrator oversees the use of the dollars and what it used for.

subsection g. – Oversight of bid waivers will be part of the purchasing policy as well as the Charter. It is important to have oversight of bid waivers.

Mr. Timpanelli agreed.

subsection h. – This disallows an outgoing administration to sign contracts for the 6 week period after an election.

Mr. Altieri stated that if an emergency situation arose the Town Council could approve with the 2/3 majority vote, suggesting it read as 2/3 vote of those present and voting. All present agreed.

section 7. Town Clerk – The four (4) year term has been previously discussed by the committees thoroughly.

section 8. Town Attorney- Chairman Chiota stated that this section clarifies that other attorneys besides those that had been appointed by the first selectman could perform legal work on behalf of the town. Upon further discussion of those present it was determined that the additional attorneys payment would be from the Town Attorney line item in the budget. If the attorneys were to be paid from a different account, board approval would be necessary. Ms. Hanna further clarified that although there are certain individual attorneys appointed as the Town Attorneys they wanted to include the other attorneys of that firm to perform the work and be paid from the town attorney account. As it reads now some people have interpreted that only the individual appointed attorney(s) could represent the town, this would clarify the language.

Mr. Cordone stated as a practical matter this happens all the time. This is long standing practice; the revision is making the Charter match what has taken place all along.

Atty. Maslan stated that the town attorney is appointed by the first selectman and has certain authorities, on the money side you have a line item that the town attorney(s) are paid from; bond counsel is separate, WPCA has a separate attorney. There are times when the town attorney appointed does not have the expertise on a particular matter, what this section does is to deal with the authority to have the work performed done by others. This language would allow the town attorney to delegate that work. All agreed that payment would have to come from the town attorney budget and if it did not they would have to come to the board for approval of the appropriation. This language would not give them the right to exceed the budget.

Chairman Chiota stated this section codifies past practice.

Ms. Waizenegger stated that the section also removes the phrase “or associate attorneys” it now reads as, “The Town Attorney or associate attorneys shall be attorneys admitted to practice law in this state”; by removing the phrase “associate attorneys” implies that the associate attorneys do have to practice law in this state. Ms. Waizenegger requested that the phrase be added back, Attorney Maslan stated that all three (3) lines of the section need to be read together; the first line and the next two lines when read together defines the intent of the language that Ms. Waizenegger referred to. Ms. Waizenegger reiterated that the language should be written clearer so there would be no debate.

Section 10. Welfare- Paragraph b had been stricken, because the only way to amend the charter is to go through the charter revision process.

Section 11- Animal Control Officer. – The title “Animal Control Officer” replaces the title “Dog Warden” representing the way the position is referred to in current times.

Section 12- Public Works - The Parks and Recreation Commission has been combined.

Subsection B. (e) – The cost of the construction shall include the projected maintenance and operating costs of what is being built. This allows the council to understand the full cost of the project and the future support of the construction being considered and/or approved.

Ms. Waizenegger spoke in favor of this addition to the Charter.

Subsection C. – Director of Public Works– The requirement to be an engineer was removed from the qualification requirements. Ms. Hanna explained that by state statute it is required that the department have a P.E., which it does.

Mr. Altieri stated by mandating the qualifications they could be eliminating a candidate with excellent an skill set. Ms. Waizenegger agreed.

Subsection F. Superintendent of Highways and Bridges – The Director of Public Works or his/her designee shall be the Superintendent of Bridges and Highways. This language would allow the Director of Public Works to designate who will be the Superintendent of Highways and Bridges. Ms. Hanna stated this is split and allows for it to continue to be split.

Subsection G. Tree Warden – This provision disallows the tree warden to remove trees with or by his own company.

Mr. Ciocci stated that the term financial interest should read as conflict of interest.

Mr. Altieri stated that would remove certain people who would qualify.

Ms. Hanna and Chairman Chiota explained that this provision would not allow the tree warden’s own tree removal company to perform the tree work of the Town.

Section 13. Civil Preparedness – The term “Defense” was changed to “Preparedness” to represent the current terminology.

Section 16. Department of Economic and Community Development – Effectively Trumbull has very little land left to develop it will take the effort of the Economic Commission, the first selectman and the authority to attract businesses to Town. The Charter Revision Commission did

not want to write the position into the Charter, the position would not be mandatory it was written into the Charter to be discretionary.

Chairman Chiota disagreed with Mr. Altieri, explaining that this would be a position, it would not be a member of his/her office staff. This is separate department within the town. It is currently a contract position. The position is not mandated by the Charter, it has been left discretionary.

Section 17 – Director of Labor Relations – This position has been left discretionary, this does not require the town to have it.

Mr. Timpanelli left the meeting at 9:09 p.m.

Chapter VII - Boards and Commissions:

Board of Finance -The language makes clear who would have the authority to hire the internal auditor and to whom that person would report to. It has been clearly specified as the Board of Finance. The internal auditor will have the power to audit any government entity including the BoE, Special Agency accounts and Town departments. The language answers the question that has been asked and debated previously.

Board of Assessment Appeals – Alternates were added. This board currently does not have alternates; this provision would allow for a member to appeal his own assessment or if the said member were to recuse himself for a particular reason an alternate could step in to vote.

Board of Education - All present understood that a change was necessary due to the legal issue with the seventh seat. The Charter Revision Commission proposed the BoE as a 9-seat board with four (4) year terms. This would make it as competitive as possible. The Town Committees would no longer be making straight appointments. The CRC had suggested all seats to be voted in at one time.

Atty. Maslan stated that how the two year seat is filled as it is written today in the Charter; is why the state says it has to go. Everyone runs for the four year seats, the one who wins with least number of votes is the 2 year seat. There is not any one person running for the two year seat, the state says you can not do it that way.

Mr. Holden stated that the 9-member board was considered based upon a BoE member requesting that the CRC consider 9, which would allow the BoE to break into equal 3-member subcommittees to perform the work, tasks and/or assignments of the Board.

Presently there is only one member elected to the BoE. The party make-up is as follows: Party A would have 2 people and Party B would have one person eligible to hold those seats. Two years later there would be two people from Party B and one person from Party A that would be eligible to hold those seats.

The major parties only nominate as many seats as they are going to win. This guarantees that once a candidate has been endorsed by a political party they will be put on the BoE.

The only contest is the two year seat; two candidates to go head to head for that seat.

The 9-member board would give the voters choice. Other options had been considered with a 3 year term staggered but did not solve the competitive issue.

Ms. Waizenegger stated that a default provision needs to be put into the Charter; otherwise the original 7th seat issue is still there if this option were to be voted down.

Mr. Altieri stated that the only competitive seat is the two year seat.
Chairwoman Testani stated this section needs to go back to the drawing board.
Chairman Testani and Ms. Waizenegger stated the 7th has to be fixed by statute.

Mr. Holden suggested a 9 member board with two year terms.
Mr. Cordone stated that if the Charter as a whole is rejected by the town then we are still left with the Charter provision with regard to the 7th seat, which is inconsistent with state law.

Mr. Rappa suggested the change as 7 seats with 4 year terms.
Mr. Holden stated that 7 vs. a 9 member board is an issue speaking in favor of being able to break into subcommittees of three. If there were a 7 member board, there could be as many as 5 from one political party; the parties could run a total of 10 candidates running for 7 seats. The percentage is almost the same as 12 running for 9 seats with a small fraction of a difference speaking in favor the extra number of members which would offer extra support and allows them to divide into equal subcommittees.

Mr. Altieri spoke on behalf of people who are against politicizing the BoE; some people preferred the Board when it was a 6 member board with 3 & 3.
Chairman Chiota disagreed with the point that the Board was not political. Mr. Holden questioned how the board had not been political when it is strictly appointed by a body of town committees.
Mr. Altieri agreed.

Mr. Cordone noted that the vast majority of boards and commissions of the town are appointed and not elected. Chairman Chiota noted that those boards are not responsible for 60% of the Town budget as the BoE is.

Section 4. Library Board – Is now being referenced as the Library Board as they are currently referred to.

Section 7. Inland Wetlands and Watercourses Commission. – The title of the commission is being corrected to reflect what they have always been named. Terms have been changed to 3 alternates as opposed to 2 to be consistent with other boards.

Section 8. Police Commission – This section includes a deletion of the language, “Of all promotions will be made from within the department”.

Mr. Altieri cautioned that this transfers too much power to the commission.
Chairman Chiota noted that previously the Charter only allowed the them to choose only from within the department without being to look outside, noting that this is not the prudent thing to do.
Mr. Altieri spoke against the deletion.
Chairman Chiota stated the deletion allows the department more flexibility.

Section 9. Board of Health – The addition of section D. A catch all safety provision.

Section 10. Economic and Community Development Commission-

Chairwoman Testani stated that the Chairman of this commission had addressed the committee during a public hearing.

Chairman Chiota stated that the Chairman of the Economic and Community Development Commission had requested a liaison between P&Z and the Commission. The language is actually included in the P&Z section and will be addressed by the CRC.

Section 11. Park and Recreation Commission – The Park and Recreation Commission has been combined to a 9-member board and both commissions are in agreement with this proposal. There is a transition in place so that no members have to be removed.

Section 12. Golf Course Commission – The terms went from 5 years to 3 years, to be consistent with 3-year terms across the board. “Subject to ordinance by the Town Council” has been added.

Mr. Rappa questioned whether there had ever been a consideration that a Town Council member be appointed to the Golf Course Commission or the WPCA? Chairman Chiota stated that had never been suggested before, cautioning that it could be a conflict of interest.

Jury Commission is obsolete, there is no such commission anymore and has been removed from the Charter.

Section 14. Housing Authority – The addition of the language “One member shall be a resident of Stern Village” has been made. This is currently the case and is now just being put in writing.

The Civil Service Board – is not needed anymore. Ms. Hanna’s concern of eliminating this board was with regard to the creation of the test. It was confirmed that the board determines what needs to be tested and the allotment of the points. The CRC will need to discuss this further.

Ms. Waizenegger left the meeting at 9:43 p.m.

Ms. Waizenegger returned to the meeting at 9:45 p.m.

The Library has absorbed the Youth Commission’s activities.

Section 16. Ethics Commission-

Subsection D. – The extension of time to 45 days was a request of the commission. Atty. Maslan stated that the commission needs to meet twice during this time-frame; once to find probable cause and once to meet on the actual hearing; 30 days was too confining.

Mr. Altieri stated that the time frame should be reduced to 15 days, since time seems to fade the importance of the matter.

Atty. Maslan it is just the act of someone filing a complaint; there are two findings that the commission has to determine and decide upon before you get to a hearing.

Chairman Chiota stated that there had been a request that the Conservation Commission be returned to the Charter. The CRC will do so.

Town Council Chairman Massaro submitted the Town Council's written recommendation for reconsideration and proposed changes to the Charter Revision Draft to the Chairman of the Charter Revision Commission at this meeting.

The L&A Committee will meet on Monday, June 27, 2011 at 7:00 p.m. without the Charter Revision Commission. The Charter Revision Commission will meet on its own on the same date.

The L&A Committee and the Charter Revision Commission adjourned at 9:47 p.m. by unanimous consent.

Respectfully Submitted,

Margaret D. Mastroni, Town Council Clerk